

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
AT ERIE**

LEONARD AIKEN, JR.,)	
)	
<i>Petitioner,</i>)	CIVIL CASE NO. 16-cv-00011-BR-SPB
)	
v.)	
)	ORDER
THE ATTORNEY GENERAL OF THE)	
STATE OF PENNSYLVANIA,)	
)	
<i>Respondent.</i>)	
)	
)	

**ORDER ADOPTING IN PART REPORT AND RECOMMENDATION AND
DISMISSING PETITION**

The Court, having considered Petitioner Leonard Aiken, Jr.'s Petition for Writ of Habeas Corpus, the Report and Recommendation of Magistrate Judge Susan Paradise Baxter, Petitioner's Objections thereto, and the balance of record, **HEREBY ORDERS:**

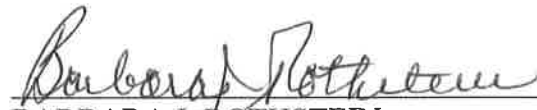
- (1) The Court **ADOPTS** the Report and Recommendation.
- (2) The Anti-Terrorism and Effective Death Penalty Act ("AEDPA") requires that a petitioner filing a second or successive application for writ of habeas corpus first move in the appropriate court of appeals for an order authorizing the district court to consider the application. 28 U.S.C. § 2244(b). Where the court of appeals has not issued such an order, the district court lacks jurisdiction to consider the petition. *See Burton v. Stewart*, 549 U.S. 147, 156 (2007). Petitioner admits in his petition that he has not made application to the Third Circuit Court of Appeals for an order authorizing consideration of his second habeas petition.

(3) Petitioner's objection that the "second or successive petition" rule is inapplicable to his case because his previous habeas petition was dismissed on statute of limitations grounds is not supported by case law. Accordingly, the petition is **DISMISSED**.

(4) This case is **CLOSED**.

IT IS SO ORDERED.

Dated: May 12, 2016.



BARBARA J. ROTHSTEIN
UNITED STATES DISTRICT JUDGE